

Hi Amalia & Eric,

I appreciate the update. Thank you.

I am confused though by how Appendix B applies to Section 5141.1 (f)(4)(A) relative to fit-testing and medical evaluation requirements. **My question is this: If the employer provides respirators to all employees for voluntary use under Section 5141.1 (f)(4)(A), is fit testing and a medical evaluation required?**

I ask this because the current draft of Section 5141.1 (f)(4)(A) states the use of N-95 masks is “*voluntary use in accordance with section 5144.*” It further has a note that states, “*For voluntary use of filtering facepieces, such as N95 respirators, section 5144 does not require fit testing or medical evaluations.*” So, it seems like requirements for fit-testing and a medical evaluation would not apply.

However, elsewhere in the regulation, it provides safety standards that create confusion relative to fit-testing and medical evaluations. The regulation specifically states, “*Employers shall use Appendix B to this section in lieu of Appendix D to section 5144 for training regarding voluntary use of respirators.*” To me, this means that Appendix B negates Section 5144 Appendix D relative to Section 5141.1 (f)(4)(A) and creates new requirements for voluntary use under Section 5141.1 (f)(4)(A).

This is where my confusion lies, as Appendix B provides, “*The following precautions must be taken:*

- 1. Choose respirators certified for use to protect against the contaminant of concern. NIOSH, the National Institute for Occupational Safety and Health of the U.S. Centers for Disease Control and Prevention, certifies respirators. A label or statement of certification should appear on the respirator or respirator packaging. It will list what the respirator is designed for (particulates, for example). Surgical masks or items worn over the nose and mouth such as scarves, T-shirts, and bandannas will not provide protection against smoke. An N95 filtering facepiece respirator, shown in the image below, is the minimum level of protection for wildfire smoke.*
- 2. Read and follow all instructions provided by the manufacturer on use, maintenance, cleaning and care, and warnings regarding the respirators limitations.***
- 3. Do not wear a respirator into atmospheres containing contaminants for which the respirator is not designed. A respirator designed to filter particles will not protect employees against gases or vapors, and it will not supply oxygen.*
- 4. Employees should keep track of their respirator so that they do not mistakenly use someone else's respirator.*
- 5. Employees who have a heart or lung problem should ask their doctor before using a respirator.”***

In two places, the [user instructions for the 3M Particulate Respirator N95](#), recommends a fit-test and a medical evaluation. Keep in mind that OSHA 29 CFR 1910.134 referenced in manufacturer’s instructions only applies to mandatory use. By referencing those requirements via reference to Appendix B which references the manufacturer’s instructions, it is not clear whether a fit-test and medical evaluation is inadvertently required by reference. Especially since the diagram provided in Appendix B states “shave facial hair.”

Additionally, without a medical evaluation, how will an employer know if an employee has a heart or lung problem under (5) above?

I am sorry for my confusion on this issue and appreciate your feedback and guidance.

Take care,

Michael

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**Sent:** Wednesday, May 22, 2019 4:05 PM

**To:** Neidhardt, Amalia@DIR <[ANEidhardt@dir.ca.gov](mailto:ANEidhardt@dir.ca.gov)>

**Subject:** The Cal/OSHA Protection of Workers from Wildfire Smoke webpage has been Updated

To all interested parties, the draft Cal/OSHA Emergency Regulation to Protect Workers from Wildfire Smoke has been updated.

The pre-meeting and post-meeting comment letters received can be accessed at the following link:

<https://www.dir.ca.gov/dosh/doshreg/Protection-from-Wildfire-Smoke/>

For questions regarding wildfire smoke, please contact Deputy Chief of Health [Eric Berg](#) at (510) 286-7010 or Senior Safety Engineer [Amalia Neidhardt](#) at (916) 263-1944.

- Amalia Neidhardt